

Rent Bidding Study

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To: Steve Walker, Office of Housing

From: Bin Jung, Office of Housing

OVERVIEW

Seattle Ordinance 125551 established a one-year moratorium on rental housing rent bidding platforms and directed the Seattle Office of Housing (OH) to study the potential impacts of rent bidding platforms on Seattle's housing market. The ordinance was passed after online and mobile application-based rental bidding platforms, Rentberry and Biddwell, entered the Seattle housing market in 2017. Rentberry was quickly criticized by the Associated Students of the University of Washington Student Senate (ASUW). ASUW brought up the issue with City of Seattle Councilmembers, after which City Council decided to move forward with a moratorium on rental bidding platforms. The Seattle City Council instituted Ordinance 125551 in April 2018.

The brief duration of rental bidding platforms operating in Seattle prevented local data collection. As a result, the effect of rental bidding platforms on the Seattle rental housing market and on equitable access to housing cannot be analyzed. Rental bidding platforms have been in operation in other cities, which provides insight into how the City of Seattle could proceed. However, rental bidding platforms have been largely unpopular amongst renters and municipalities, and their establishment in cities is questionable. This study provides relevant information from other cities regarding rental bidding platforms where available, and identifies how the platforms could pose potential violations of City, State, and Federal laws and regulations if allowed to operate in Seattle.

The report details:

- Background information
- Issues and potential violations
- Topics for further analysis

BACKGROUND

Rental bidding is a practice where prospective tenants compete for a rental unit by negotiating with the landlord on the amount of rent charged. Rental bidding has become more common over the past decade due to high demand for rental housing and the scarcity of rental housing, specifically at lower-income ranges. Rental bidding platforms institutionalize the practice of rent bidding by creating an online auction marketplace for rental housing. Multiple sources have likened rental bidding platforms to "eBay for housing."

However, in the past few weeks, some rental bidding platforms have transitioned to focus more on advertising rental properties than on rental bidding. Previous conversations with trade organizations

representing landlords had revealed that using rental bidding platforms as an additional advertising opportunity would be of interest to landlords, specifically smaller landlords who conduct their own advertising. A recent review showed a large percentage of listings posted on rental bidding platform websites were advertisements for properties listed on StreetEasy, Zillow, Craigslist, and realtor.com. Few listings were exclusive to the rental bidding platform, questioning if rental bidding would actually occur for the property. As rental bidding platforms continue to evolve, fewer challenges could be posed leading to less need to take further analysis or additional action.

The design of rental bidding platforms varies. In general, landlords list available properties on the platform and set an initial asking monthly rent. Prospective tenants create user profiles, which can include information such as names, photographs, credit scores, background checks, personal references, work history, previous residences, and links to social media accounts. After finding a rental unit to their liking, prospective tenants offer a monthly rent bid to the landlord for their consideration. Bids are allowed to be submitted for a period of time, after which landlords select a tenant based on their monthly rent bid and additional screening criteria.

The design of some rental bidding platforms allows prospective renters to see the number of bids placed and the current highest bid. Other platforms do not provide that information, and bidders provide a closed bid without knowledge of the current highest bid amount. After the landlord selects the winning bid, the landlord-tenant relationship and screening process move offline. However, some rental bidding platforms have incorporated automated landlord services such as background checks, lease signings, rent collection, and maintenance requests into their operations, and encourage landlords and tenants to conduct all business through their app.

The objective of rental bidding platforms is to create an online marketplace that connects landlords and prospective tenants, and provides an opportunity to negotiate rents. Rent bidding platforms often profit by receiving a commission for successful lease signings. In the case of Rentberry, if the landlord selects an offer with a monthly rent greater than their initial listed price, Rentberry receives an additional monthly payment of 25% of the difference.¹

Rent bidding platforms became active in the San Francisco Bay Area and major Australian cities in 2017, and were universally met with critique from tenant organizations and the media. Commentary from the San Francisco Rent Board, Australian tenant unions, and various media outlets underscored the potential for rental bidding platforms to exploit scarce rental markets, exacerbate housing affordability crises in their respective cities, and discriminate against low-income households and populations vulnerable to displacement.²

In response, rent bidding platforms asserted the technology could provide an opportunity to reset a housing market with inflated rents. These claims are unable to be validated, partially due to the fact that

¹ Moffitt, 2016

² Jacobs, 2019

rental bidding platforms were originally released exclusively in cities experiencing housing affordability crises and tight rental markets. Although rental bidding platforms have since expanded to other cities, any effect that rental bidding platforms have on weak or strong housing markets is difficult to disaggregate and attribute directly to rental bidding platforms. Currently, Seattle is also in a severe affordable housing crisis where the demand for rental housing, specifically affordable rental housing for low-income households, outstrips the supply. As a result, an analysis of the effect of rental bidding platforms in a weak Seattle market cannot be conducted until a surplus of affordable housing stock at all income levels is reached.

In Seattle, the ASUW called on the City of Seattle to ban rental bidding platforms after the app Rentberry was released in 2017 and rental housing in the University District began to appear on the app. The ASUW statement noted existing high rents, the cost of housing as a significant part of the cost of education, and Seattle's standing as one of the most competitive housing markets in the United States. ASUW also referenced Rentberry's initial marketing to landlords that claimed that apartment rents would rise an average of 5% when listed on their app, and also noted that Rentberry changed this claim in response to public backlash.

ASUW brought up the issue of rental bidding with City of Seattle Councilmembers, and in March 2018, the City of Seattle approved Ordinance 125551. The Ordinance established a one-year prohibition on the use of rental bidding platforms and requested a study from the Seattle Office of Housing on rental bidding platforms. Rentberry, Inc. and Delaney Wysingle, an individual that owned a rental property in Seattle, then sued the City over the prohibition. Rentberry and Wysingle claimed that the ordinance violated their right to free speech under the First and Fourteenth Amendments. In March 2019, District Court Judge Richard A. Jones ruled in favor of the City of Seattle, concluding that the use of rental bidding platforms was a form of conduct, not speech. The Plaintiffs have appealed to the Ninth Circuit Court, and the appeal is currently pending.

ISSUES AND POTENTIAL VIOLATIONS

Ordinance 125551 detailed multiple concerns regarding rental bidding platforms, including:

- Compliance with federal fair housing protections, state rental housing regulations, and Seattle Municipal Code (SMC)
- Equitable access to rental housing
- The effect of rental bidding on the housing market depending on the scarcity of housing supply
- A lack of information regarding benefits and drawbacks to landlords and tenants

The issues and potential violations posed by rental bidding platforms as they relate to these concerns are presented below. Although focused on local implications, this section includes information and insight from other cities with rental bidding platforms in operation. In particular, the experience of the city of Melbourne, Australia provides an interesting case study.

Compliance with fair housing protections – Housing discrimination against protected classes

Discrimination in housing is prohibited at the federal, state, and local levels. Laws and regulations at the state and city levels broaden the number of communities protected against housing discrimination. Rental bidding platforms could potentially violate anti-discrimination law if their design and operations do not comply with federal, state, and city regulations. Discrimination and implicit bias in housing is widely known and well-studied. Research on discrimination in online housing rental services is also growing, providing a foundation by which to understand the implications of rental bidding platforms.

The Fair Housing Act of 1968 prohibits discrimination in housing based on the basis of race, color, religion, sex, disability, familial status, or national origin. The Fair Housing Act was intended to supplement the Civil Rights Act of 1964, and marked the creation of federal enforcement provisions against discrimination in housing. In Washington State, it is illegal to discriminate against prospective and current tenants on the basis of sexual orientation, gender identity, and veteran/military status. Furthermore, within the city limits of Seattle, it is illegal to discriminate based on political ideology, use of a trained guide dog, or use of a Housing Choice (Section 8) Voucher. These additional protections were added by the city and state to address systematic harm and move towards more fair and equitable access to housing.

The design and interface of some rental bidding platforms mimic other housing rental apps, such as Airbnb and HomeAway, that have been criticized for allowing racial discrimination to occur on their platforms. A solid body of academic research, articles, social media testimonials, and anecdotal evidence on racial discrimination witnessed on Airbnb exists, and can inform best practices for other online housing rental apps.

Airbnb is a cornerstone of the sharing economy, and positions itself as a platform that connects people who have particular goods, in this case, housing, with those who wish to obtain them. Airbnb requires users to create profiles with real names and pictures to create this community of people and facilitate a sense of trust and sharing amongst them. However, prospective guests who were Black, had disabilities, or were transgender have repeatedly been refused lodging on Airbnb in multiple cities nationwide and around the world.³ The major criticism is that the use of real names and photos in user profiles triggers racial profiling and discrimination. All of these prospective guests listed are members of protected classes in the city of Seattle, and it would be illegal to discriminate against them.

A 2016 study found that guests with distinctively Black names were 16% less likely to be accepted relative to identical guests with distinctively White names. The study conducted a field experiment where messages were sent to 6,400 listings on Airbnb across five cities. Messages sent by accounts with distinctively Black names received a positive response 42% of the time, compared to 50% of the time for accounts with distinctively White names. An additional analysis found that discrimination against accounts with distinctively Black names was limited to hosts who had never previously had a Black

³ Glusac, 2016

guest, suggesting that the host's behavior is consistent with broader underlying pattern of discrimination.⁴

Federal and state government audits testing for racial discrimination since the Fair Housing Act was passed has shown an overall decrease in face-to-face discrimination in regulated offline, in-person housing markets. This is not to imply that discrimination does not exist. The Seattle Office of Civil Rights (OCR) has tested for, and found, discrimination against protected classes in the Seattle housing market. Offline housing markets can be audited and tested for housing discrimination, whereas testing for discrimination in online platforms is still a relatively new, but critical, monitoring practice.

Furthermore, the anonymity of online markets in conjunction with key product design choices could work to discourage discrimination in housing rental platforms. For example, eBay uses online user handles rather than real names. These online user handles can offer fewer indicators of race or ethnicity, whereas platforms that make race, sex, disability, and other protected class characteristics visible may trigger explicit/implicit bias and discrimination.

Compliance with fair housing protections – Subsidy discrimination

Rental bidding platforms may be incompatible or inherently problematic with housing subsidy programs if the auction process consistently raises rents beyond voucher holders' ability to pay, regardless of the affordability of the initial asking rent. Housing Choice Voucher (HCV) holders may be rendered uncompetitive in rental bidding platforms, which could be discriminatory, violate fair housing law, and impede equitable access to housing if available housing is listed exclusively on these platforms.

As stated, the Revised Code of Washington prohibits discrimination of a prospective tenant based on source of income. Source of income refers to benefit or subsidy programs, such as housing and public assistance programs, veteran's benefits, social security, or other supplemental security income. Housing Choice Vouchers, previously called Section 8 vouchers, are classified as a source of income.

Furthermore, in 2016, the City of Seattle passed alternative source of income protections, which expanded fair housing protections for renters who use alternative sources of income and subsidies to pay for housing costs. This expanded the applicable subsidy programs to include short- or long-term subsidy offered by a government programs, private nonprofits, or any other assistance program that pays a tenant's rent through a direct arrangement between the program and the property owner.

The Housing Choice Voucher (HCV) program is a housing subsidy program administered by the Seattle Housing Authority (SHA). The program assists low-income families, individuals, seniors, and people with disabilities in finding housing in the private market. A monthly maximum rent amount is calculated for households participating in the program; households pay typically 30-40% of their monthly income towards the maximum rent, and the HCV pays the remaining portion. HCV holders must find housing with a rent that is either at, or below, the maximum amount listed on their voucher.

⁴ Edelman, Luca, & Svirsky, 2016

Use of a HCV requires coordination between the voucher holder, SHA, and the landlord of the rentable unit. After a voucher-holding household finds a suitable unit, the landlord of the unit must complete and return an SHA Leasing Kit for approval. SHA must determine the rent to be reasonable for the HCV holder and the neighborhood before approval. If there is a question about the rent, SHA may engage in a negotiation process with the landlord to set an affordable and reasonable rent. SHA then conducts a Housing Quality Standards (HQS) inspection of the unit to ensure it is decent, safe, and sanitary. If the unit does not pass inspection, the landlord is required to make repairs before a tenant move-in. The final lease is not signed until the Leasing Kit is received, the rent is approved, and a HQS inspection is completed. All three parties, tenant, HCV, and landlord will need to sign an agreement.

The average time for a HCV household to move into an apartment is approximately two weeks, but that is subject to change. Variables such as return of the Leasing Kit, rent negotiation, and HQS inspection could extend the time it takes for a lease to be signed and a tenant to move in. There is no commitment between the landlord and tenant, and either party can cancel the process until a lease is signed.

The necessity for time and coordination has been challenging for some HCV holders in their housing search. Most large property management companies utilize a dynamic pricing algorithm that relies on time-based pricing reflecting market supply and demand to set rents for their available units. Rents are subject to change throughout the month. HCV holders are unable to confirm their eligibility to move into a unit until the Leasing Kit is completed and approved by SHA and the unit passes SHA inspection. The rent amount is set when a HCV holder applies for an apartment and provides the landlord with a Leasing Kit. However, the time between the offer of a Leasing Kit and actual move-in is subject to coordination and approval by SHA. This may require a resetting of rent by the property management company as dictated by their pricing algorithm, which could restart the process or price out the tenant from the available unit.

On rental bidding platforms, landlords select a tenant based on their rent offer and additional screening criteria. Although rental bidding platforms advocate that a landlord can conduct a holistic evaluation of the tenant, a rent auction could cause a landlord to judge higher rent offers with more weight than other screening criteria. HCV households are at a disadvantage in rent auctions due to their rent and income limits and although HCV holders are protected under multiple levels of the law, rental bidding platforms have yet to implement design interventions that prevent source of income discrimination. Low-income households at large are also implicated, echoing the major critique that higher-income households will have a competitive edge in rent auctions and that disadvantaged populations will be further isolated from housing opportunities.

Lack of information on effect to Seattle's housing market and to tenants and landlords

Rental bidding platforms are a relatively nascent technology that appeared in select major cities in 2017. The brief duration of rental bidding platforms in Seattle prevented local data collection, and data on rental bidding platforms from other cities is also minimal. Rental bidding platforms appear to be utilized for their advertising capacity, but there is lack of information tracking the effect of rental bidding platforms on successful lease signings or the demographics of renters who secure housing on the

platforms. To OH's knowledge, no studies or audits have been conducted to collect data on these platforms. The difficulty in disaggregating the effect rental bidding platforms have on the housing market from other market factors also contributes to the lack of information on the technology. Any study on the effect of rental bidding platforms on a housing market would require a rigorous methodology in order to draw significant and sound conclusions.

Before the app Rentberry's release in San Francisco, the company conducted a test to see what the effect of the app would be on landlords in the San Francisco/San Jose area. Rentberry concluded that landlords would be able to see a 5% increase on rents when using its rental bidding app.⁵ The sample size was ten landlords and Rentberry did not divulge its analysis, and so the results of the test should be viewed in isolation. After immediate negative press on the app's ability to increase rents, Rentberry soon after stated that rents for housing units listed on its app had decreased by 5% within 10 test cities.⁶ No subsequent data has been released by Rentberry or any other app to demonstrate that rental bidding platforms result in lower rents, particularly in strong rental markets.

Seattle has an extremely competitive housing market with a scarcity of affordable housing stock for low-income households and populations vulnerable to displacement. More information about rental bidding platforms and their effect on the local housing market, landlords, and tenants will not be available unless rental bidding platforms are reinstated. However, clear concerns exist on how rental bidding platforms' design and operation could violate federal, state, and local law, and negatively affect low-income households and protected classes. These protections and issues are not unique to Seattle, and rental bidding platforms have also not demonstrated compliance with regulation and accessibility requirements in other cities.

Equitable access – Digital inequality

The design and interface of rental bidding platforms presents more issues regarding accessibility and equitable access to housing opportunities. Digital inequality is an established concern for those with limited internet access, English language learners, and populations with disabilities. New technologies offer opportunities to engage a broader and more diverse population than the traditional formats of posters, newspapers/television, phone calls, mailings, and in-person announcements/conversations alone. However, new technologies can be exclusionary if their design and interface do not consider and amend design for disadvantaged populations. In addition, equitable access is also questioned if housing opportunities are listed exclusively on rental bidding platforms.

Multiple factors contribute to digital inequality including device and internet access, skill level and technological literacy, and support/technical assistance. Rental bidding platforms require a computer or smartphone with internet access to view the rental housing opportunities listed. Low-income households have lower rates of in-home broadband internet connectivity compared to higher-income households, and are more likely to depend on smartphones rather than computers to have internet

⁵ Kendall, 2017

⁶ Mims, 2017

access at home.⁷ Computer access maybe limited to shared machines in public spaces such as libraries, which present additional obstacles of time, availability, and age of technology. Smartphones may be ubiquitous, but internet speed and data packages can be costly and be an additional barrier to access.

Furthermore, smartphones are only as valuable as one's ability to utilize them. Technological literacy and skill levels with new technologies vary among English language learners, seniors, and populations with disabilities. Moreover, new technologies may also not always be available in formats or languages that are compatible to population needs, forcing people to seek out support or technical assistance in order to utilize the app. Rent auctions through an app are a time-sensitive process that requires consistent engagement with the technology.

CASE STUDY: MELBOURNE, AUSTRALIA

The City of Melbourne's experience with rental bidding platforms provides an interesting example by which to understand the entry of a technology into a contested environment and its ultimate resolution. Rental bidding platforms, including Rentberry, entered the Melbourne housing market in 2017. The City of Melbourne, located in the state of Victoria, had been experiencing massive population growth in the past years that outpaced the production of housing, leading to an affordability crisis. The pressure of the crisis was felt throughout the city. Media reports and articles reflected broad concern regarding the rapid increase of rents in rental housing, the decrease in homeownership opportunities, and the gentrification of neighborhoods. The City's comprehensive plan charted the goal to accommodate and house over 1.6 million new residents in the next 35 years and highlighted initiatives to increase density and create more affordable housing.⁸

Similar to other cities, rental bidding platforms faced immediate criticism in Melbourne and other Australian states from residents, tenant unions, and media outlets. Tenants Union of Victoria, a governmental organization that promotes and protects rights of tenants and residents in the state, fiercely opposed Rentberry and the practice of rent bidding. Although Rentberry marketed itself to bring transparency to an opaque landlord-tenant rent negotiation, Tenants Union of Victoria stated rental bidding platforms aggravated a lack of transparency around rental prices in housing, and placed lower-income populations competed with higher-income populations in a bidding competition.⁹

Housing issues and concerns are addressed by the Consumer Affairs unit in the state of Victoria. In 2016, Consumer Affairs Victoria commissioned a report on rental experiences for tenants, landlords, and property managers in the state. The report surveyed 1,836 tenants in Melbourne, and found that up to 20% of prospective tenants had offered to pay more than the listed renting price to give themselves a competitive edge over other applicants. In most cases, the prospective tenant offered a higher rent, but nearly a quarter of tenants reported that a higher rent amount was suggested to them by the real estate agent or landlord. The report also found that the practice of offering higher monthly rents became more

⁷ U.S. Department of Housing and Urban Development, 2016

⁸ Victoria State Government, 2016

⁹ Robb & Zhou, 2017

common with higher income populations, with 50% of those in the middle to highest quintiles of income offering to pay more than the listed rent.¹⁰

This study affirms that higher income households are able to be more competitive in rent auctions than low-income households by the sheer nature of being able to offer more rent. Although offering more rent was not illegal in Victoria, concerns were raised regarding the prevalence of the practice and its effect on low-income households in securing housing. As housing issues fell within the purview of consumer affairs, Consumer Affairs Victoria concluded that advertising a property at a price lower than what a landlord was willing to accept could have been deemed ‘false and misleading conduct,’ which was a violation of law.¹¹ Therefore, rental bidding and rental bidding platforms posed to be a potential mechanism for false and misleading conduct by allowing landlords to list monthly rents they knew were not genuine asking amounts. In September 2018, the Victorian Government passed the Residential Tenancies Amendment Bill, which included a reform that prohibited rental auctions and required fixed rent amounts in advertisements for available housing units.¹²

There are clear differences in how the City of Melbourne and the City of Seattle address housing issues. Contrary to the state of Victoria, Australia, landlord-tenant issues in Washington State are generally regulated under the Residential-Landlord Tenant Act rather than the Consumer Protection Act. However, the example of Melbourne surfaces the question of whether rental bidding platforms comply with the wide range of state law.

RECOMMENDATIONS AND FURTHER ANALYSIS

Seattle’s housing affordability crisis is a critical issue for the City and its citizens. Recent revisions to the housing code and updates to fair housing protections expand equitable access to rental housing, and demonstrate the City’s commitment to equity. The following topics should be investigated if rental bidding platforms are to be allowed to operate in Seattle.

First-in-Time case

In 2016, the City of Seattle passed First-in-Time legislation, which required landlords advertising rental housing to offer tenancy to the first qualified applicant that met the established screening criteria. The objective of First-in-Time was to combat implicit bias resulting in housing discrimination. First-in-Time was overturned in 2018, and the City of Seattle successfully sought direct review by the Washington State Supreme Court. The outcome of this case may affect rental bidding platforms, in that rental bidding platforms would violate First-in-Time if it were to be restored. The Supreme Court heard oral argument on that matter on June 11, 2019. The timeline following the oral argument is to be determined as decisions typically require a few months, although they could take longer.

¹⁰ Ernst & Young, 2016

¹¹ State Government of Victoria, 2016

¹² Parliament of Victoria, 2018

Further analysis on the effect on landlords and tenants

As stated previously, there is little data on the effect of rent bidding platforms in Seattle, given the limited time period they were in operation locally. Conversations with representatives from trade organizations representing Washington State landlords provided limited information on the effect of rental bidding platforms on membership operations. A representative of the Washington Multi-Family Housing Association (WMFHA), a professional trade organization that represents larger multi-family properties, stated that the organization's constituency did not use rental bidding platforms when they existed in Seattle (B. Waller, personal communication, April 22, 2019). WMFHA's constituency would also most likely not be interested in the service due to the large size of the buildings and the prevalent use of dynamic pricing algorithms to set rents. A representative from the Rental Housing Association of Washington, which represents small rental property owners and managers, remarked that the majority of their membership also did not use rental bidding platforms in advance of the moratorium, although a percentage may be interested in trying the platforms in the future if they were to be reinstated, if only for the advertising opportunity (S. Martin and H. Pierce, personal communication, April 25, 2019).

Regarding the effect of rental bidding platforms on renters, future analysis could include which populations or demographics more frequently achieve winning bids in comparison to the demographics of all bidders. An online audit could also be done to evaluate housing discrimination and implicit bias on rental bidding platforms. The experience of Housing Choice Voucher (HCV) holders should be researched further to better understand if HCV holders are consistently rendered uncompetitive, or otherwise discouraged or prevented from using rent bidding platforms. Additional research on the geographic location of properties utilizing rental bidding platforms could also provide information on the effect of these platforms in different local markets, and the extent to which they can intensify real estate pressures in a neighborhood.

Other Washington State law violations

The compliance of rental bidding platforms with all provisions of the Residential-Landlord Tenant Act is to be determined, as is their compliance with all other Washington State laws. For example, Washington State requires real estate brokers to be licensed and regulated, and, in general, leasing property in exchange for compensation is something that requires a broker's license. Whether rental bidding platforms may need to be comply with real estate broker requirements due to their operations should be determined. Finally, auctioneers are also required to be licensed in Washington State, and it is not clear whether a rent bidding auction may require an auctioneer license.

Rent control

The imposition of controls on rent or the regulation of rent in residential rental buildings that are not low-income housing is prohibited by RCW 35.21.830. The prohibition of rental bidding platforms may be in violation of this regulation if interpreted to be a control on how much rent private persons can charge for rental properties.

Additional services – Security deposits and background checks

Some rental bidding platforms extend their scope to include automated landlord services such as security deposit and rent collection, and maintenance requests. For example, Rentberry allows prospective renters to bid on security deposit amounts in addition to the monthly rent. This could be a potential violation of City of Seattle Ordinance 125222, which limits the security deposit and non-refundable move-in fees amount to the amount of the first full month's rent.

In Washington State, landlords must also notify prospective tenants by writing, or posting, what types of information will be accessed in the tenant screening, and what criteria may result in denial of the application prior to obtaining any information about a prospective tenant. This could pose a potential issue for rental bidding platforms that incorporate automated landlord services into their products. Currently, two major rental bidding platforms, Rentberry and Bidwell, include automated landlord services in their operations. Automated landlord service applications can also provide background checks using a third-party provider.

In 2017, the City of Seattle passed Fair Chance Housing legislation, which prohibits landlords from committing unfair practices against renters based on arrest or conviction records, or criminal history. If rental bidding platforms were to be reinstated in the City, then all of their services would need to comply with this code and regulation. Landlords are prohibited from inquiring about criminal history, performing criminal history background checks, requiring disclosure about criminal history, or rejecting an applicant, or taking an adverse action based on a prospective tenant's criminal history. Landlords are also required to provide Fair Chance Housing language on all applications for rental properties, including online applications. A lawsuit has been brought against City of Seattle regarding Fair Chance Housing, but the Office for Civil Rights (OCR) has full authority to enforce the ordinance while litigation is pending.

Recommendations

The Office of Housing offers options for consideration but does not recommend either the reinstatement or prohibition of rental bidding platforms, namely due to the pending First-in-Time appeal and that decision's direct consequence on rental bidding platforms. However, reasonable conclusions can be made on rental bidding platforms based on their design and potential violations to federal, state, and local law and regulation. Notwithstanding a firm recommendation, rental bidding platforms should show evidence of compliance and consideration with law and regulation before reinstatement in the City of Seattle. Specifically, rental bidding platforms should demonstrate how operations would comply with federal fair housing laws, Housing Choice Voucher (HCV) accessibility, and anti-housing discrimination regulation.

In order to ensure compliance and encourage equitable access to all populations, the following recommendations are offered for consideration:

- SMC 7.24.090 – Use of online or application based rental housing bidding services prohibited

- Modify to be effective in perpetuity, or until rental bidding platforms can affirmatively demonstrate compliance with all federal, state and local laws, and fair and equitable operations
- SMC 14.08 – Unfair Housing Practices
 - Include requirements for rental bidding platforms to ensure compliance and equitable access such as:
 - HCV accessibility
 - Anonymous profiles
 - Accessible formats for people with disabilities
 - Multiple language support
 - Listed screening criteria
- SMC 14.08.015 – Seattle Open Housing Poster
 - Require Seattle Open Housing Poster on all rental bidding platforms
- Modify rental bidding platforms operations to allow HCV holders to be competitive in the rent auction process

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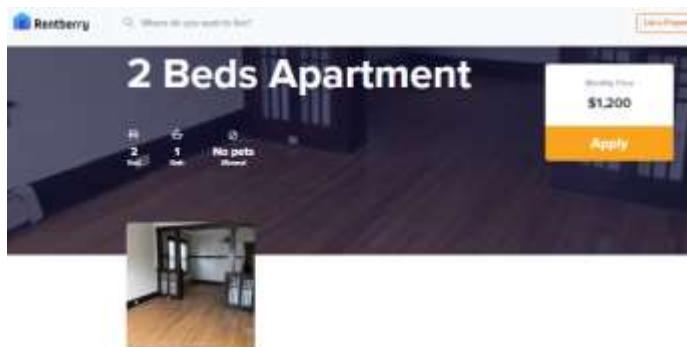
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APPENDIX

In recent weeks, some rental bidding platforms, have transitioned to focus on advertising.



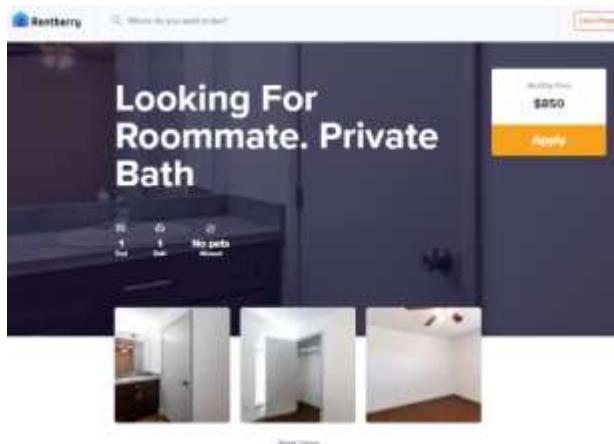
Apartment Description

(651) 408-2790 - RLNE3221546 2-Bed Unit close to Whole Foods and Selby/Snelling. - Please note this unit is on street parking only. 2-Bedroomed unit with hardwood floors, fresh paint and updated kitchen and bathroom. Beautiful building sits just a block away from the brand new Whole Foods at Selby and Snelling. Living and dining room are complete with original wainscoting features and built-in. The ... Full description

A screenshot of a realtor.com listing for a 2-bedroom apartment. At the top, it says "Saint Paul, MN". Below that is a large thumbnail image of the apartment interior. To the left, it shows "2 1 900 sq ft 0 baths". To the right, it says "\$1,200 / mo". At the bottom, there's a "Request Details" button and a "See all Issues? Report" link.

Screenshot of Rentberry listing, 07/03/19

Original listing on realtor.com



Room Description

Offering a room for rent with a private bath. 2Brw/2Baths. Great location! Very close to downtown, restaurants and stores. Free parking.



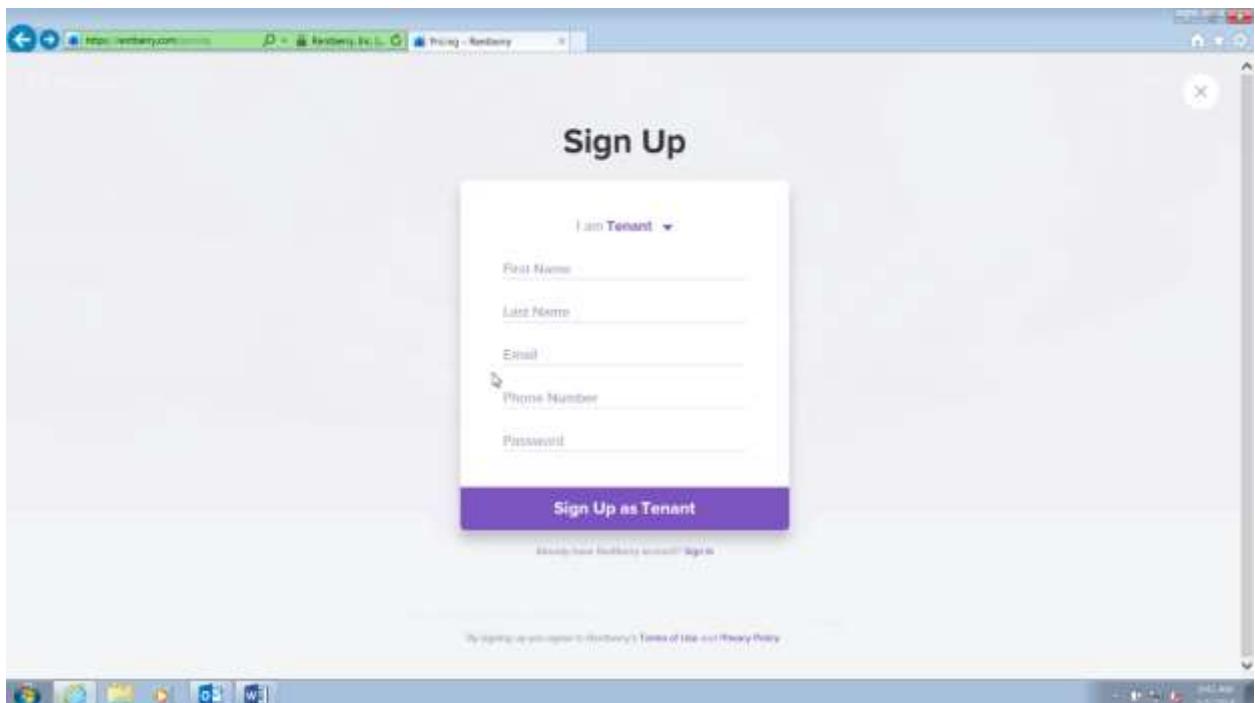
Screenshot of Rentberry listing, 07/03/19

A screenshot of the Roomster website listing for the same room. At the top, it says "Roomster Windows" and "E Riverside Dr; Austin, TX, USA". It features a photo of a bathroom with a sink and a mirror. Below the photo is the price "\$800 USD per month". To the right is a circular profile picture of a man. The listing details include: "12 days ago", "EAST Riverside Private Bedroom/Bath Private Room offered by Alex", "Location: East Riverside Drive, Austin, TX, United States", "Minimum Stay: 6 months", "Available Date: Immediately", and "Leave By: Dec 13, 2019".

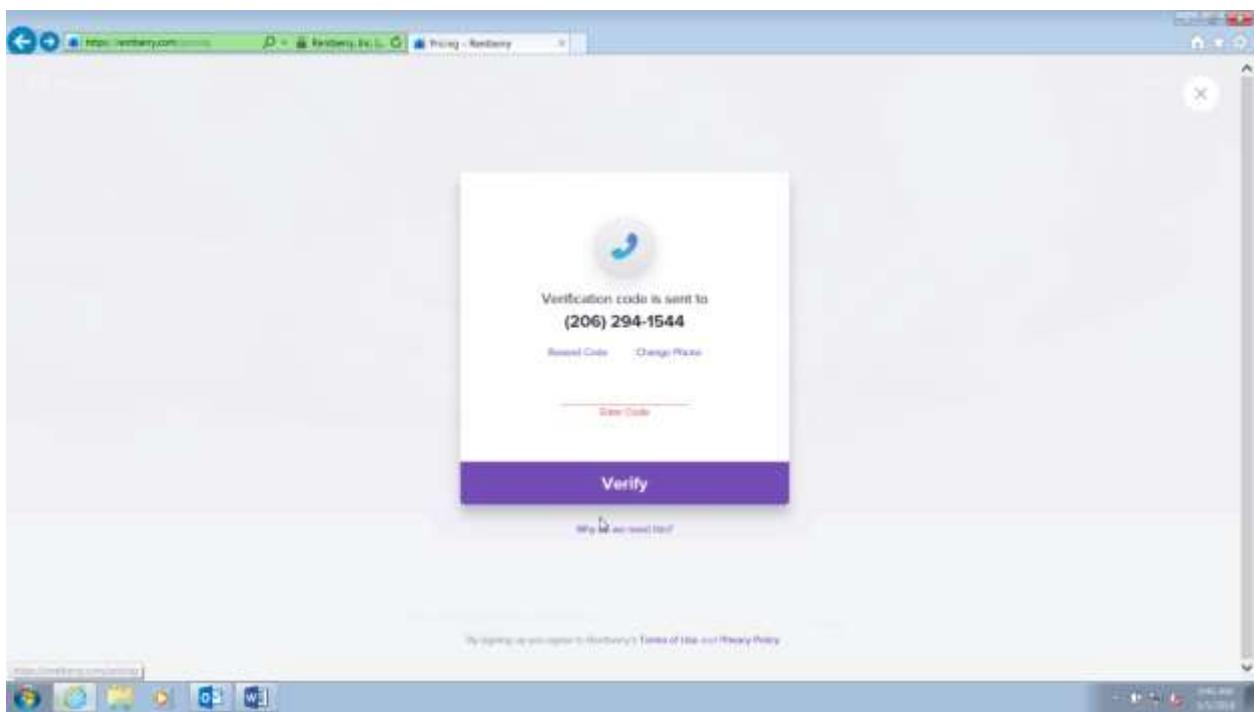
Original listing on roomster.com

Dummy email addresses and profiles were created on rental bidding websites in March 2018.

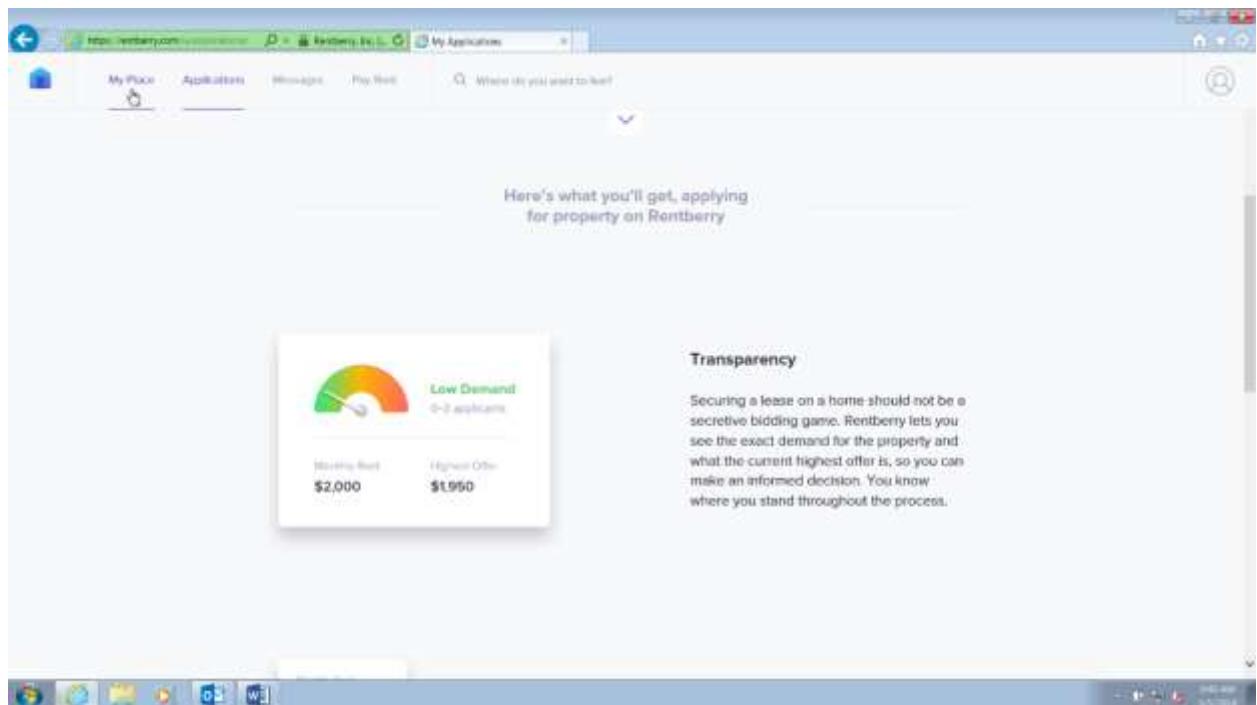
1. Rentberry Registration



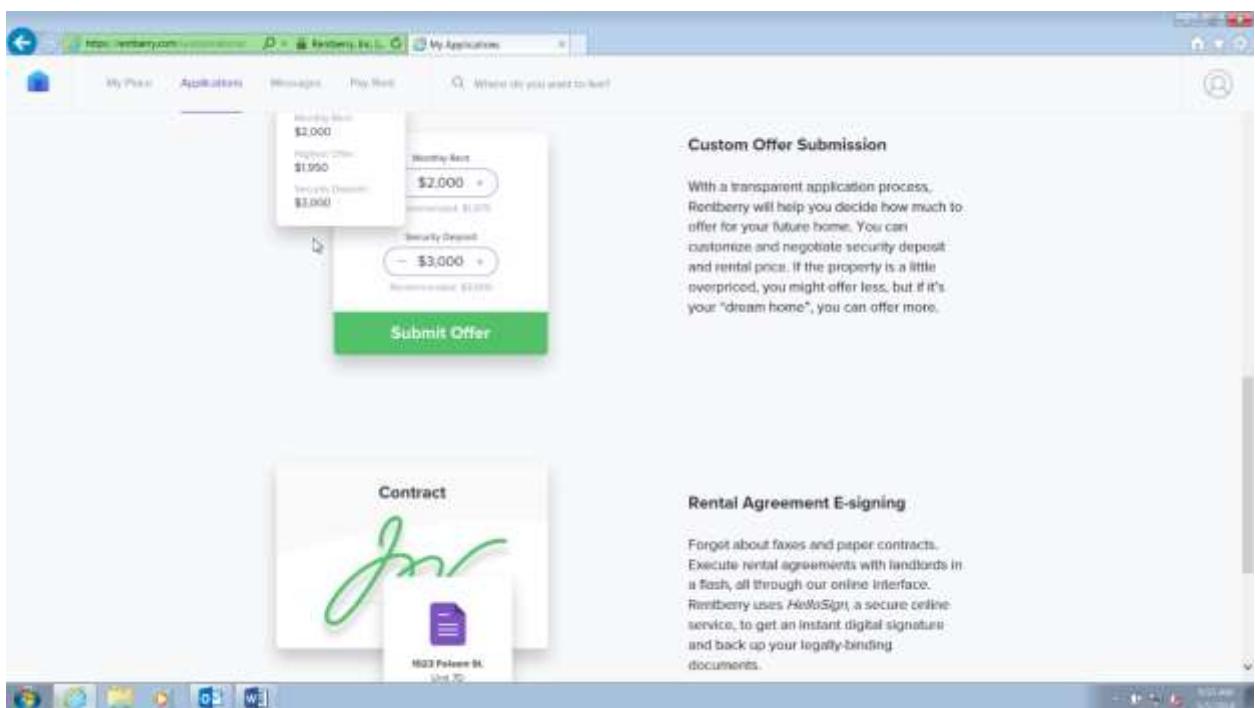
2. Rentberry Phone Number Confirmation



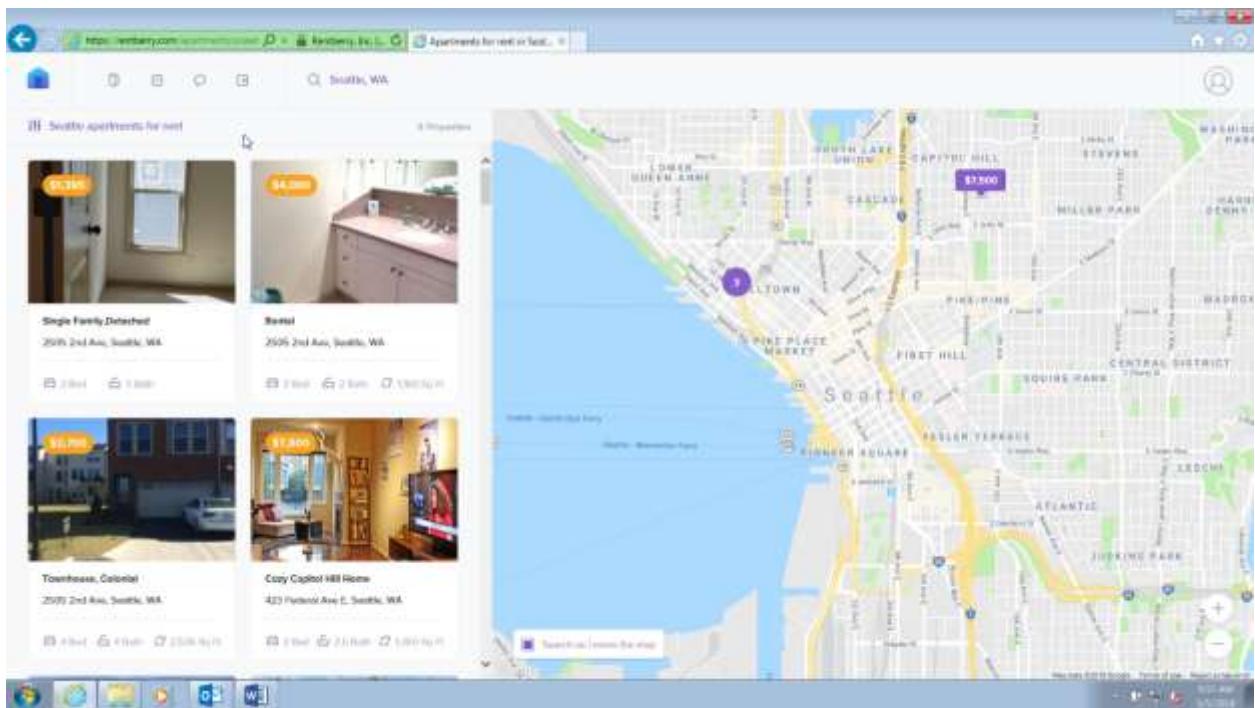
3. Rentberry Transparency Statement



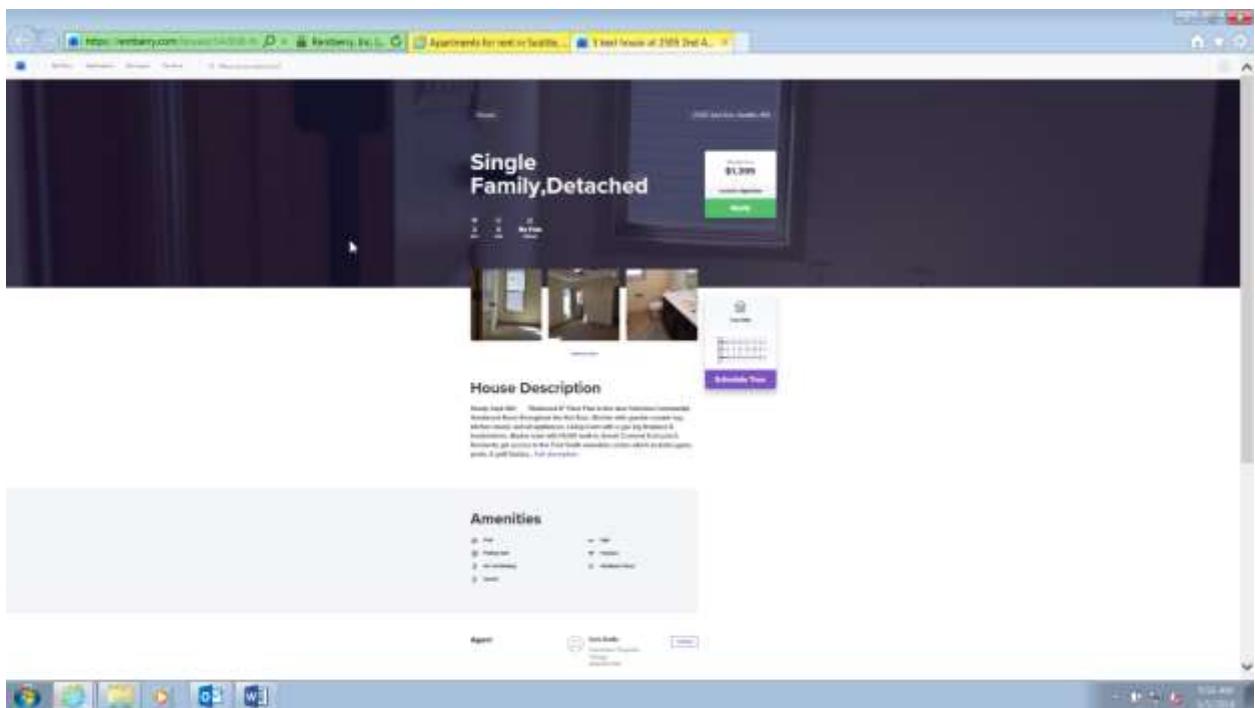
4. Rentberry Custom Offer Information



5. Rentberry Property Listings in Seattle



6. Rentberry Property Description



7. Rentberry Complete Property Description

The screenshot shows a web browser displaying a property listing on the Rentberry website. The URL in the address bar is <http://rentberry.com/listing/315th-and-4th>. The page title is "Room Description".

Room Description

Room available March 9 in a perfect location within the Pinney Ridge neighborhood. Two blocks from restaurants, Ken's Market, Fred Meyer, coffee shops, bars, bus stops (#15 and #28 to Downtown), and parks.

Only a short walk to Green lake or a 5 minute drive to Ballard.

The available room is on the main floor level of the house. You would be sharing a bathroom with one other person. The homeowner lives on the top floor, there are two bedrooms on the main floor level, and two bedrooms on the basement level for a total of 5 bedrooms in the house. The homeowner is easy to get a hold of if there is a maintenance problem and fixes issues in a timely manner. The basement level has a second kitchen. The house has 3 bathrooms in total.

Brand new dishwasher, oven, washer, and dryer.

The cost is \$900 per month for rent + \$100 per month for utilities, electricity, Internet, television, and gas heating. Includes Netflix, Amazon Prime Video, and basic local TV channels (via digital antenna).

Free street parking is easy and never a problem.

Flexible lease terms are available.

No pets.

First month's rent + \$500 security deposit required upon move-in.

A sidebar on the right shows a small image of a house and the text "Free Date" followed by a date selector. A purple "Schedule Tour" button is also present.

8. Rentberry Rental Application Process Step One

The screenshot shows a web browser displaying the first step of the Rentberry rental application process. The URL in the address bar is <http://rentberry.com/listing/315th-and-4th>. The page title is "1. Your Offer".

1. Your Offer

Agent's Price

Monthly Rent	\$1,395
Security Deposit	—

Your Offer

Monthly Rent	\$1,395
Security Deposit	—

Demand

Low Demand
4 Apartments

Next

This step allows users to set their monthly rent offer and security deposit. It also displays the current agent's price and a color-coded demand indicator.

9. Rentberry Rental Application Process Step Two

The screenshot shows a web browser window for Rentberry, Inc. The URL is <http://www.rentberry.com>. The page title is "Apartments for rent in Seattle... 1 bed house at 2169 2nd A...". The main content area is titled "2. Personal Info". It includes sections for "Employment" (radio buttons for Employed, Student, Unemployed), "Employer" (text input field), "Title" (text input field), "Monthly Income (Optional)" (text input field), and several checkboxes for additional information: "Add rental history", "I want to add my proof of income", "I'm applying with other adults 18 and older", "I have pets", and "I have people that can be used as reference". At the bottom is a "Next" button.

10. Rentberry Rental Application Process Step Three

The screenshot shows the same Rentberry application process, now on Step Three. The title "3. Screening" is visible. The main section is titled "Application Fee" and displays a large bold "\$9.99". Below it, a note states: "We run Credit Report and Background Check as a requirement for all applicants." There are three radio buttons for payment methods: "Credit Report and Background Check", "Completely safe", and "Best price". To the right is a purple "YOUR CARD" placeholder card with fields for "Card Number" and "Expiration Date". A small note below the card says: "You acknowledge that by clicking on the Pay Application Fee button immediately following this notice, you are providing 'written instructions' to Rentberry under the Fair Credit Reporting Act authorizing Rentberry to obtain information from your personal credit profile or other information from Experian." At the bottom is a large purple "Pay Application Fee" button.

11. Rentberry Terms of Service

The screenshot shows a web browser window displaying the 'Terms of Use' section of the Rentberry website. The URL in the address bar is <https://rentberry.com>. The page content discusses the relationship between Rentberry and its users, noting that no attorney-client relationship is created. It states that real estate transactions are complicated and governed by various laws, practices, and customs, and users should seek help from a licensed real estate professional or a real estate attorney. The page then details the user's acknowledgment that they are using the services as a potential renter of a property listed on the website, either by participating in an offer search or submitting an electronic rental application. It specifies that information submitted through the website is subject to the terms of the [PRIVACY POLICY](#), described in Section 11. Below this, it says that the information will be visible to Listing Parties associated with such property and used by them in assessing your qualifications as a tenant. It notes that if the user decides to make an offer through the service to rent any property listed on the website, they are solely responsible for determining the rental price that you want to offer to a listing Party for such property. All users should be sure they are comfortable with the price they are offering and be aware of the following:

- The acceptance of your offer by a Listing Party constitutes a binding agreement to enter into a rental agreement with such Listing Party and obligates you to pay all associated fees to Rentberry and to such Listing Party.
- If you qualify for an offer listed, paying the highest offer to a Listing Party for a property that is less than the value based on the amount offered (provision that applies to offers received via Rentberry).
- You are solely responsible for determining the reasonable and prudent of any offer you make in light of the property and your circumstances.

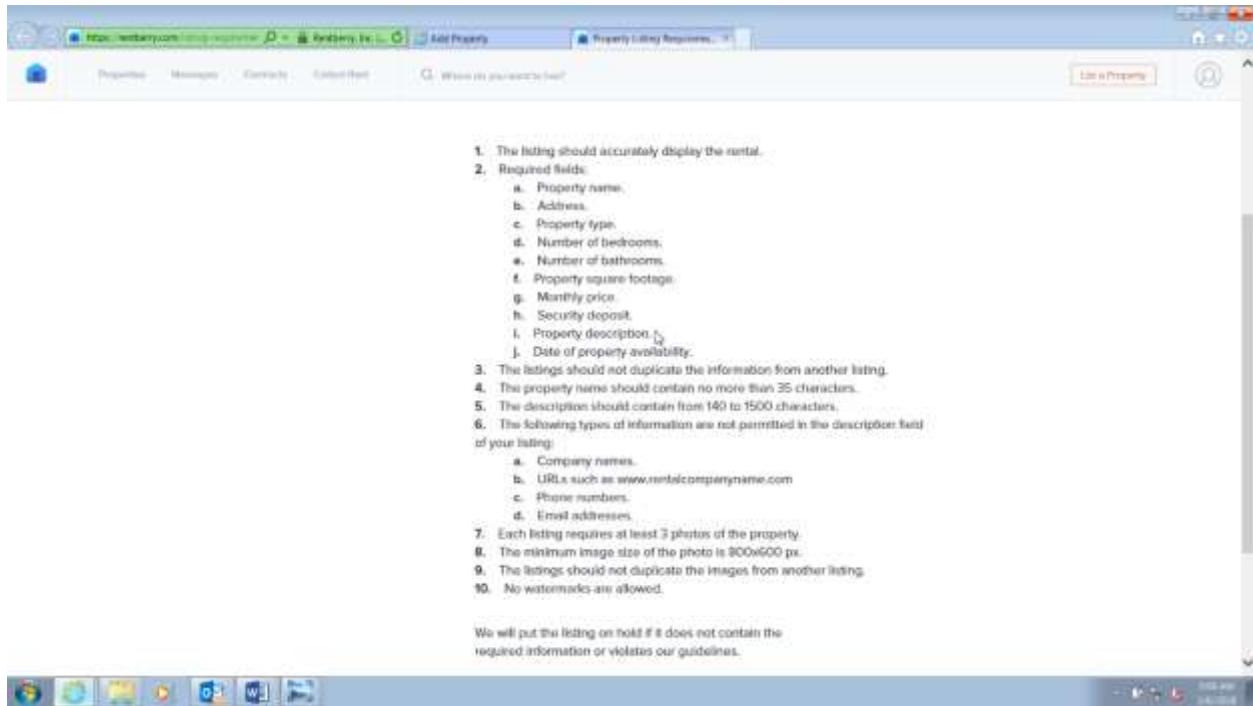
At the bottom, it states that Rentberry does not control the conduct of its users or the truth or accuracy of the information that users post on the website. It also disclaims any liability for use or register for our services, whether as renters or Listing Parties. It makes no representations about properties advertised on the website, about the Listing Parties responsible for presenting such properties, about the accuracy of information provided by such Listing Parties, or about the financial capabilities of, or the accuracy of information provided by, prospective renters.

Although we only offer features through the service (including through third party service providers) we engage which are intended to assist Listing Parties and potential

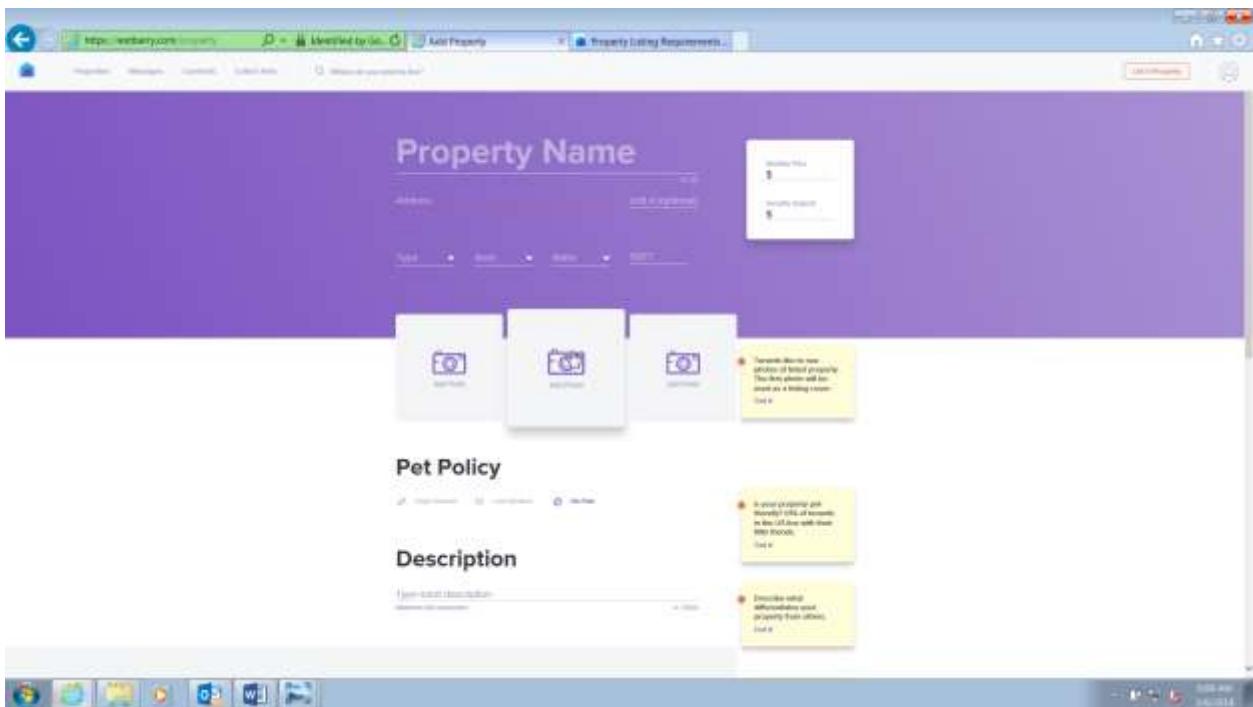
12. Rentberry Registration for Landlords

The screenshot shows a web browser window displaying the 'Sign Up' page for landlords on the Rentberry website. The URL in the address bar is <https://rentberry.com>. The page title is 'Sign Up'. A dropdown menu indicates the user is a 'Landlord'. The form fields required for registration are: First Name, Last Name, Company Name (optional), Email, Phone Number, and Password. A large purple 'Sign Up as Landlord' button is at the bottom of the form. Below the button, there is a link for 'Already have a Rentberry account? Sign In'.

13. Rentberry Rental Landlord Posting Requirements



14. Rentberry Rental Landlord Property Listing (Top Half)



15. Rentberry Rental Landlord Property Listing (Bottom Half)

The screenshot shows the bottom half of a Rentberry rental listing page. At the top, there's a navigation bar with links for 'Properties', 'Messages', 'Comments', 'Custom Alerts', and 'About Rentberry'. Below the navigation is a section titled 'Amenities' with a list of checkboxes for various features like 'Balcony', 'Pet-friendly', 'Walk-in Closets', etc. To the right of the amenities list is a yellow callout box with the text: 'Check off amenities that your tenants have checked off to know what your place offers.' Below the amenities is an 'Open House' section with dropdown menus for 'Date', 'Start Time', and 'End Time', followed by a 'Save & Post!' button. To the right of the open house section is another yellow callout box: 'Select date when you're available for open houses or events.' At the bottom of the page is a large blue 'Save & Post!' button.

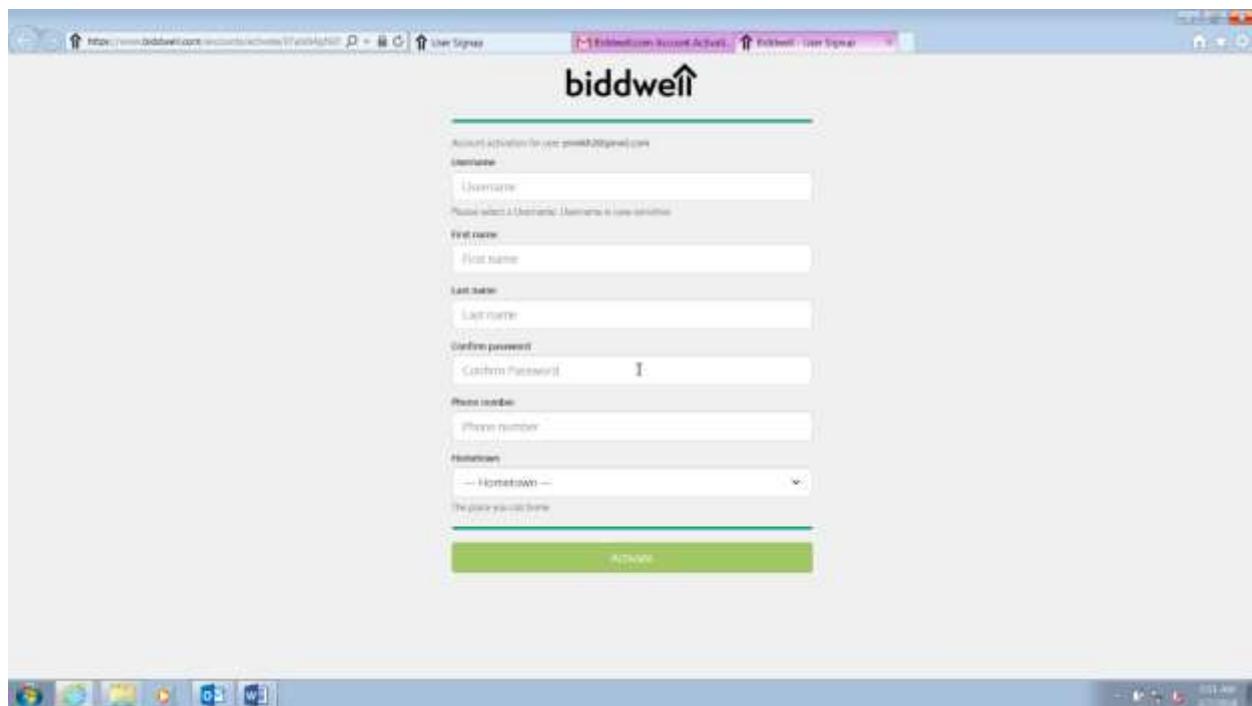
16. Biddwell Registration Part 1

The screenshot shows the first part of a Biddwell registration form. The page has a header with the 'biddwell' logo. It includes fields for 'Email' (with placeholder 'Email'), 'Password' (placeholder 'Password') and 'Confirm password' (placeholder 'Confirm password'). Below these are dropdown menus for 'Role' (set to 'Tenant') and 'How did you find us?' (with options like 'How did you find us?'). There's also a question 'Do you have a pet?' with a dropdown menu. At the bottom left is a checkbox for 'I Agree' followed by a link: 'By clicking **I Agree**, you agree to the Terms and Conditions set out by this site, including and Create User.' A large blue 'Register' button is at the bottom center, and a 'Go back to Sign In' link is to its right.

17. Biddwell Registration Confirmation



18. Biddwell Account Activation



19. Biddwell Property Search Information

The screenshot shows a web browser window with the URL <https://www.biddwell.com/search/profile/0/by-Seattle/21/2012/rent/list>. The page title is "Search Profile - Biddwell". The main content area is titled "Before we continue, let's figure out what you're looking for and what you can afford so we can best help you find your dream rental home." It contains several input fields and sliders:

- "Where do you want to live?" with a dropdown menu showing "Seattle, WA, United States".
- "How many bedrooms do you need?" with a slider from 0 to 6, currently set at 4.
- "How many bathrooms?" with a slider from 1+ to 5+, currently set at 2+.
- "Do you have a pet?" with a button labeled "Yes" highlighted in green.
- "How long do you plan to rent for?" with a slider from "1 month" to "24+ months", currently set at "12 months".
- "When do you plan to move in?" with a date input field showing "21-03-2011".

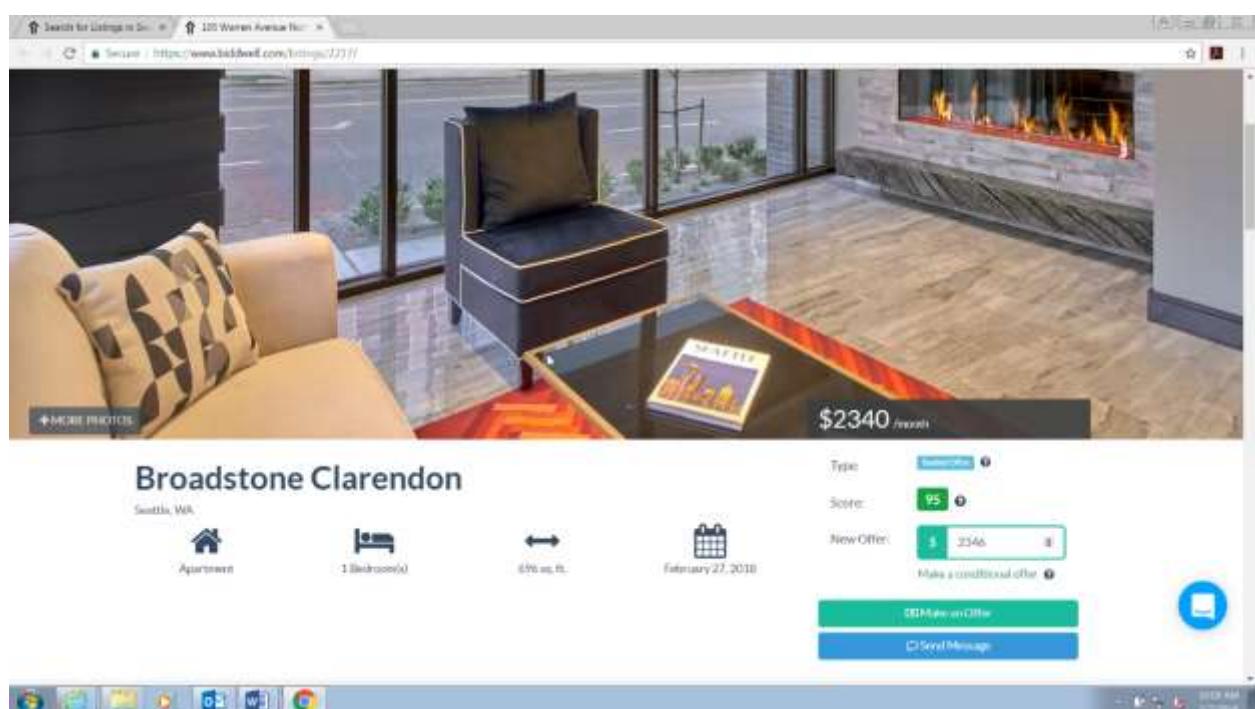
20. Biddwell Budget Information Part 1

The screenshot shows a web browser window with the URL <https://www.biddwell.com/search/profile/0/by-Seattle/21/2012/rent/list>. The page title is "Determine Your Budget". It features three circular icons: "PREFERENCE" (green), "BUDGET" (blue), and "ASSIGNMENT" (grey). The main content area asks "What is your approximate gross annual household income?" with a slider from "\$30,000" to "\$200,000+". A callout box explains: "By providing your income, we can assess your budget and affordability for the given location where you want to live. Our algorithm calculates the median cost in that area and provide you with suggestions on budget based on your preference and what you can afford." Navigation buttons "Back" and "Next" are at the bottom.

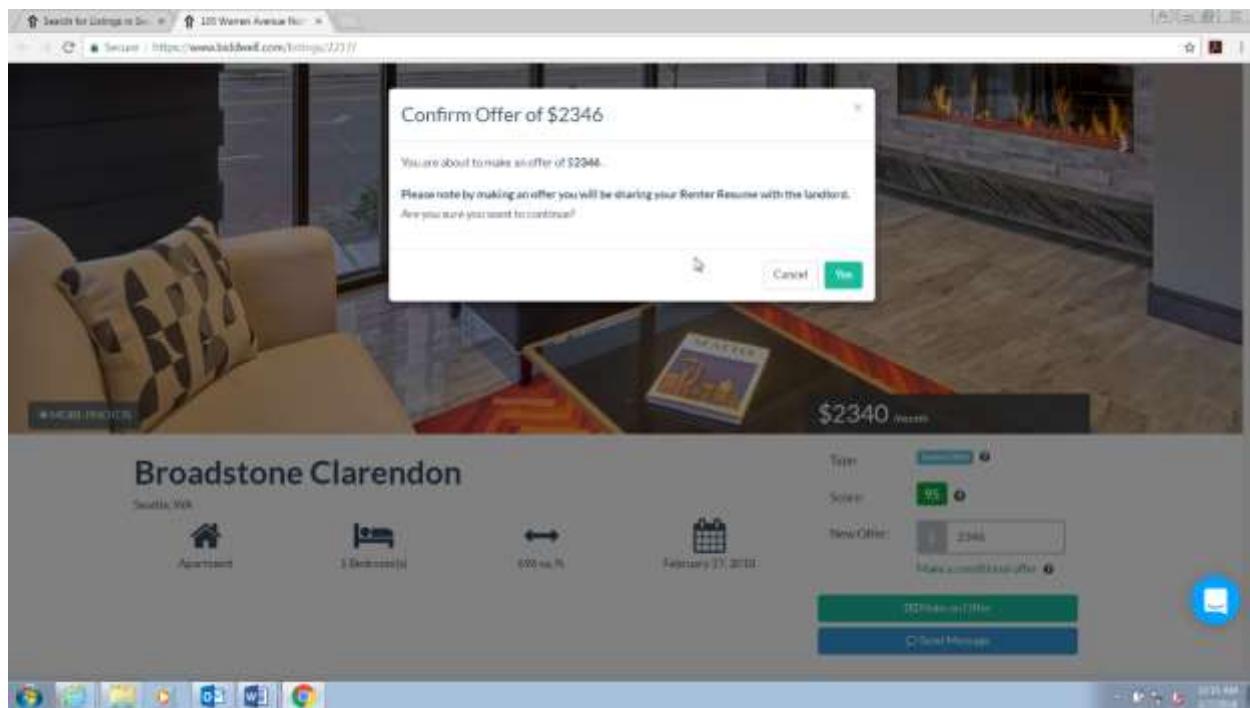
21. Biddwell Posting and Information about Bidding Process



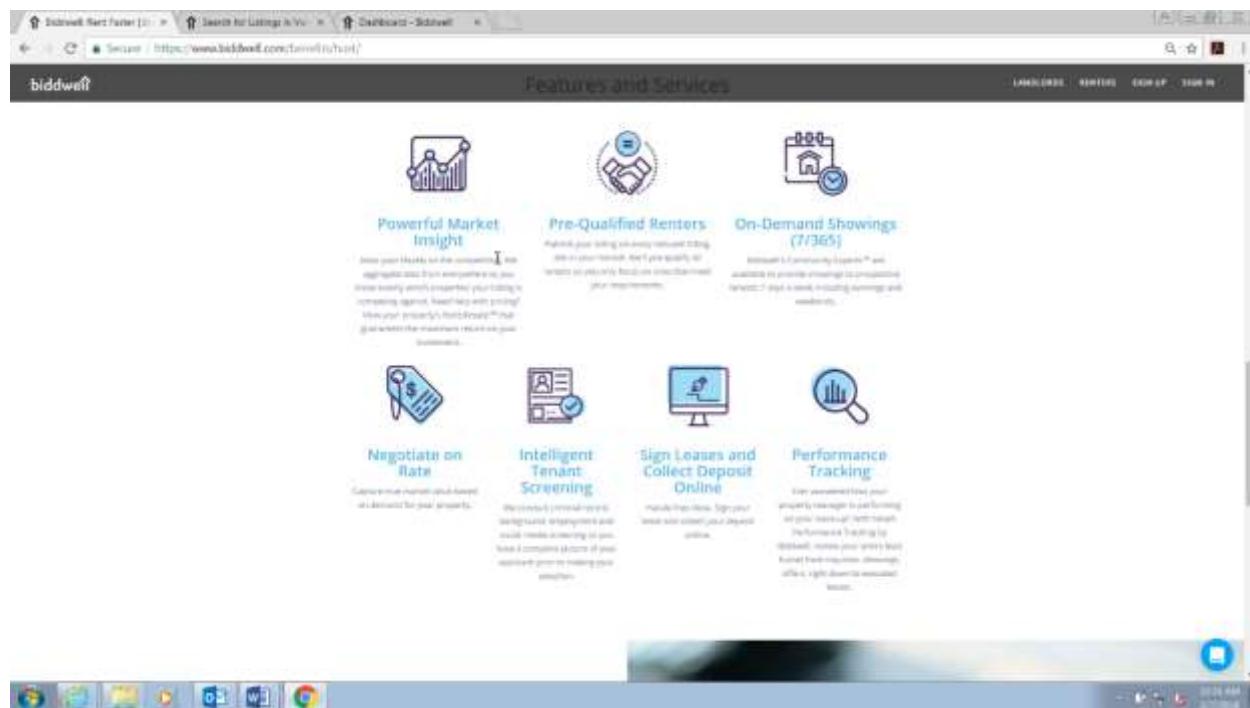
22. List of Biddwell Property Listings



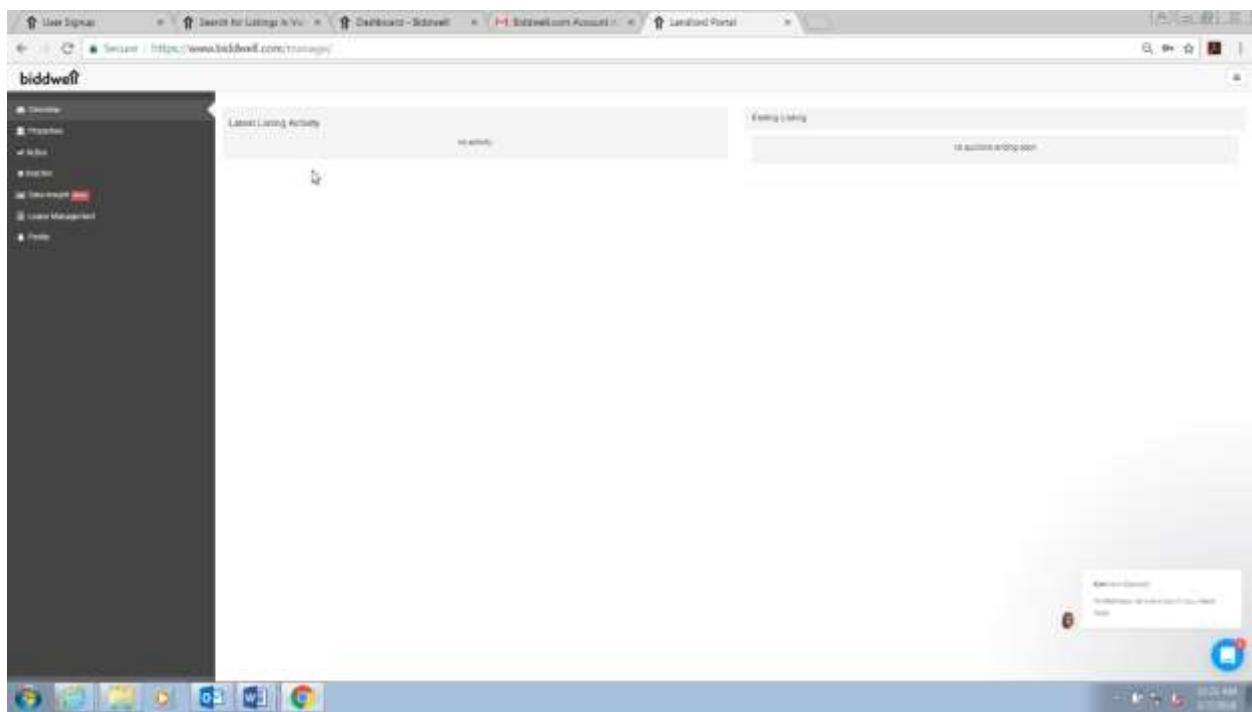
23. Biddwell Place an Offer



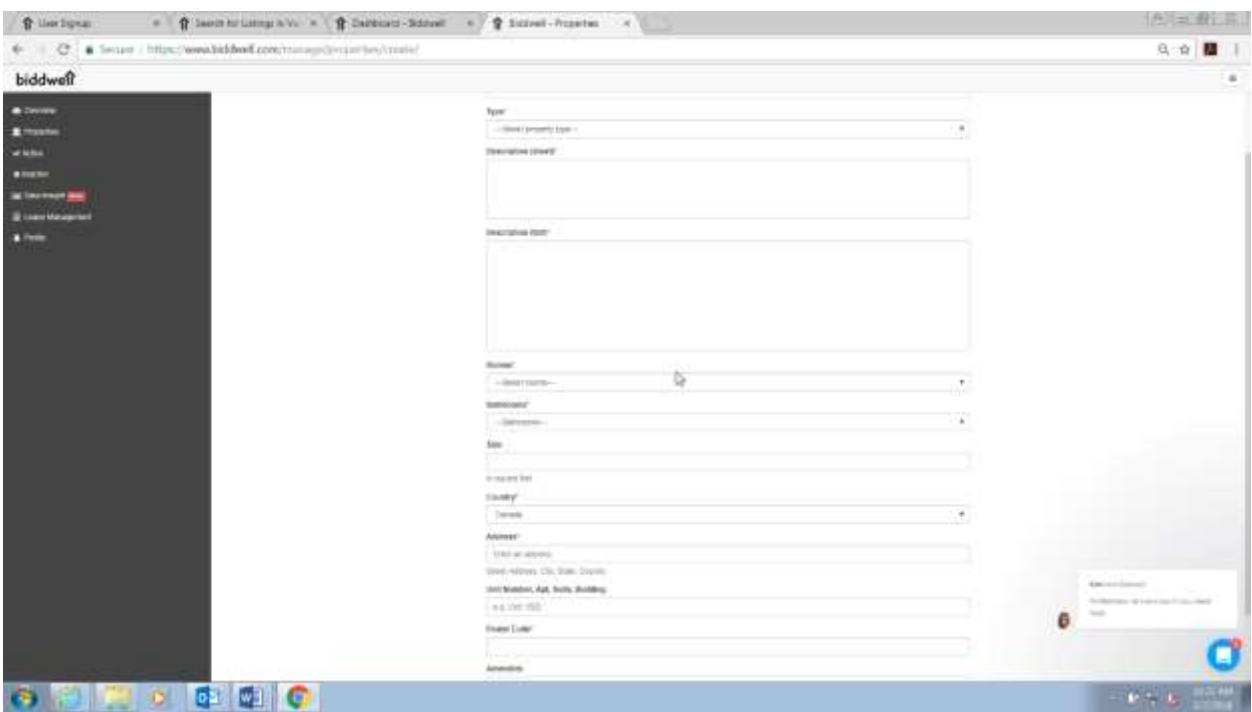
24. Biddwell Information for Hosts



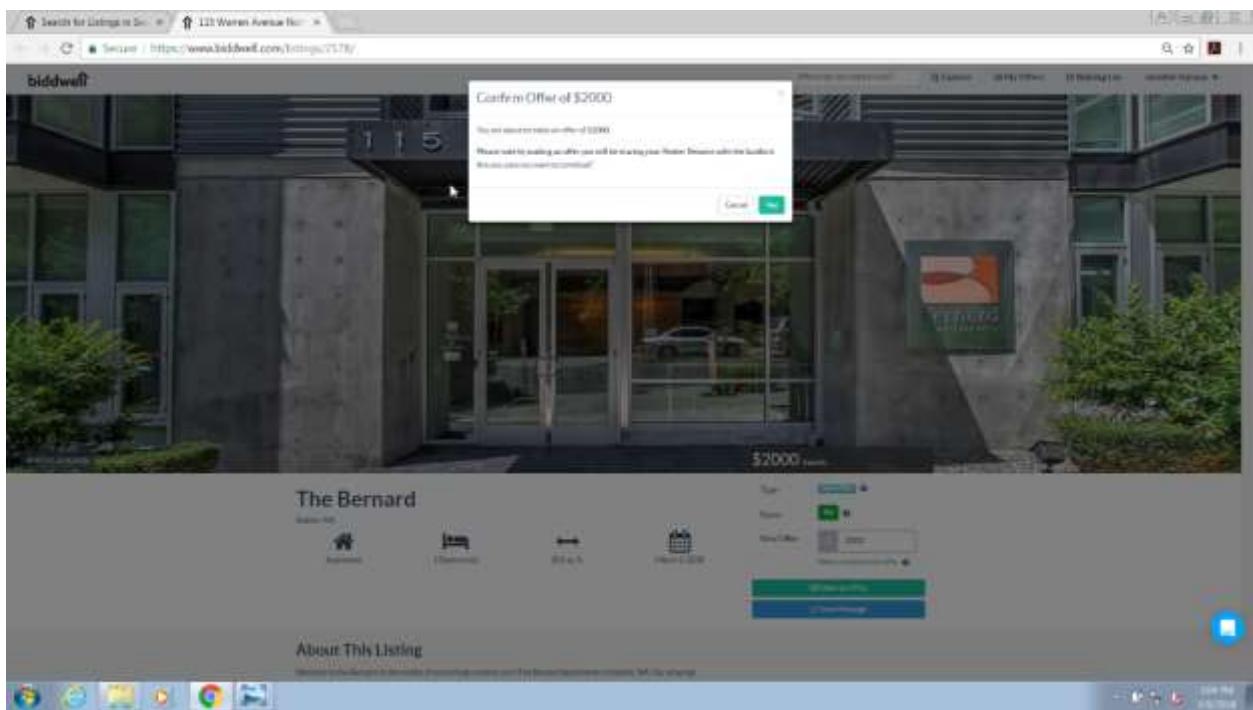
25. Biddwell Landlord/Host Dashboard



26. Biddwell How to List a Property



27. Biddwell Offer Submission Process Step 1



28. Biddwell Offer Submission Process Step 2

